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2011 DEC 14 P 3:07

Arizona Corporation Commission

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DEC 14 2011

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE
COMPANY FOR A HEARING TO
DETERMINE THE FAIR VALUE OF THE
UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX
A JUST AND REASONABLE RATE OF
RETURN THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN,

DOCKET NO. E-01345A-11-0224

STATEMENT OF POSITION

Arizona Public Service Company ("APS") strongly supports the settlement framework outlined in the Preliminary Term Sheet that Arizona Corporation Commission ("Commission") Staff filed on Friday, December 9, 2011. The Preliminary Term Sheet reflects thoughtful solutions that balance the many disparate interests at play in the APS rate case while preserving the Commission's critical role in setting energy policy. Specific to APS customers, the settlement framework would result in:

- a zero dollar base rate increase;
- a zero percent bill impact for the remainder of 2012;

- a four year rate case stay out, in which APS would be prevented from raising rates in a new general rate case until at least mid-2016;
- a buy-through rate for large commercial customers, allowing them to choose an alternative generation provider;
- an opt-out rate design for residential customers who choose not to participate in a narrowly-tailored Lost Fixed Cost Recovery (“LFCR”) mechanism that supports energy efficiency (“EE”) and distributed generation (“DG”) at any level or pace set by this Commission;
- a process for simplifying customers’ bill format; and
- additional bill assistance for APS’s low income customers, at shareholder expense.

This is an outcome that simply could not result from litigation.

The settlement framework would also allow APS to continue to provide superior service for customers, support whatever EE and DG requirements the Commission directs, and contribute positively to the Arizona economy. Moreover, the fact that a majority of the 25 parties to the case will likely express support over this framework signals that Arizona’s regulatory environment continues to be one that is collaborative, efficient, and focused on producing constructive outcomes for the State.

A. Settlement Streamlines the Administrative Process and Inspires Mutually Beneficial Outcomes.

As a general matter, APS supports settlement as a means of efficiently resolving complex matters such as utility ratemaking. Litigation is expensive and time consuming, particularly in APS’s multi-party rate case proceedings, in which dozens of intervenors represent a wide range of disparate interests. In this case, 24 entities have intervened, including large commercial customers, residential customers, competitive generation market participants, realtors, low income advocates, local unions, and EE and renewable energy advocates, among others. The Direct Testimony and supporting

1 documents submitted to date exceed 6,400 pages and identify 36 witnesses - and there
2 are three rounds of pre-filed testimony remaining if the case takes a litigation route. At
3 hearing, each of the 25 parties (including APS) will have the opportunity to examine
4 these 36 witnesses on highly contested issues – a process that will, by its nature, make
5 the hearing lengthy and litigious. The hearing in APS’s last litigated case (Decision No.
6 69663) spanned a 66-day period. By contrast, settlements typically streamline the
7 process, making it more efficient, more collaborative, and less consuming of scarce
8 administrative and judicial resources. Settlement also reduces the likelihood of appeal
9 from the final Commission order, and the uncertainty that such appeals create for the
10 administrative process.

11 From a substantive perspective, the settlement process naturally inspires creative
12 solutions to address many disparate interests, producing outcomes and customer benefits
13 that often could not result were the case litigated. In litigation, parties tend to frame and
14 present issues as “either/or” propositions. Most do not compromise or offer “outside of
15 the box” suggestions for fear that doing so would detract from their litigation positions
16 and put them at a strategic or tactical disadvantage. On the other hand, as described
17 below, the settlement framework to which multiple supporters of the Preliminary Term
18 Sheet have agreed would resolve the case in a manner that is fair to APS and its
19 customers, preserve the Commission’s critical role in establishing Arizona energy
20 policy, and serve the general public interest.

21 Importantly, Commission Staff has a strong and thoughtful presence in these
22 negotiations and keeps a keen focus on what the Commission’s likely perspective on the
23 issues would be. Indeed, as described below, a core theme of settlement negotiations in
24 this case has been how to resolve the issues presented in a manner that preserves the
25 Commission’s maximum flexibility with respect to energy policy direction during a
26 proposed four-year stay out period.

1 **B. The Settlement Framework Benefits Customers and Preserves the**
2 **Commission's Flexibility to Set Energy Policy.**

3 The Preliminary Term Sheet reflects a settlement framework that APS expects to
4 be supported by all types of stakeholders, not just two or three advocacy groups. This
5 fact strongly signals that any final resulting settlement will be in the public interest.
6 From a policy perspective, the settlement framework is sensitive to the Commission's
7 interest in retaining flexibility to set energy policy as it deems appropriate in the future.
8 Indeed, the preliminary terms were specifically designed to allow for changes in
9 Commission policy that may occur, without either constraining the Commission or
10 resulting in economically unsustainable results for APS.

11 This flexibility is perhaps best demonstrated by how the settlement framework
12 would resolve APS's original proposal for a decoupling mechanism. The framework
13 supports EE as a low cost resource and recognizes that APS will lose revenue as a result
14 of effective EE programming. But it does **not** adopt decoupling. Rather, sensitive to the
15 Commission's interest in directing EE and DG policy, the Preliminary Term Sheet
16 largely adopts Staff's proposed LFCR mechanism. The LFCR limits lost fixed cost
17 recovery only to revenues measurably lost because of EE or DG; it does not include the
18 impact of other potential factors, such as weather or general economic conditions.
19 Moreover, the amount of lost fixed costs recovered by the device is limited to the
20 amount of EE and/or DG that the Commission authorizes in any year so that APS is
21 financially equipped to support these programs at whatever level or pace the
22 Commission sets. Nothing in the rate case settlement proposal binds the Commission to
23 any specific EE or DG policy or standard. Rather, the framework both supports current
24 EE and DG regulatory requirements and flexibly adapts to any future changes in EE and
25 DG policy.

26 To further address customer concerns, the settlement framework would also give
27 residential customers a rate schedule choice to "opt out" of the LFCR if they would
28 prefer not to have that charge on their bill and addresses fixed cost recovery for large

1 commercial customers through rate design rather than through the LFCR. Although the
2 latter exclusion is not uncommon in these circumstances, the ability of residential
3 customers to "opt out" of the LFCR mechanism appears to be unique in the nation.

4 The settlement framework would also enhance the Commission's flexibility with
5 respect to the Renewable Energy Surcharge ("RES"). It would remove the requirement
6 that RES charges and caps must be administered according to certain proportions. It
7 would also move 15 months of utility-owned renewable resources from the RES to base
8 rates, thus decreasing the existing RES balance beginning as early as mid-next year.
9 Each of these provisions would give the Commission greater flexibility to manage the
10 rate and customer bill impacts associated with the RES and DSMAC.

11 CONCLUSION

12 The settlement framework outlined in the Preliminary Term Sheet is appealing
13 from many perspectives. It preserves the Commission's flexibility with respect to
14 energy policy; it shields customers from a base rate increase in challenging economic
15 times; it supports APS during a four year stay out period, allowing the Company to
16 continue to provide above-average reliability and customer service; it enables EE and
17 DG at whatever level or pace the Commission desires; and it resolves an extremely
18 complex and challenging rate case efficiently and to the mutual benefit of the many
19 parties that are likely to support this settlement framework.

20 For all of these reasons, APS respectfully asks the Commission to allow Staff and
21 the parties engaged in negotiations to further their settlement efforts and to consider
22 approving a settlement agreement reflecting the framework presented in the Preliminary
23 Term Sheet.

1 RESPECTFULLY SUBMITTED this 14th day of December, 2011.

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6 ORIGINAL and thirteen (13) copies
7 of the foregoing filed this 14th day of
8 December, 2011, with:

9 Docket Control
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11 COPY of the foregoing mailed/delivered this
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